

DAVID IGE  
GOVERNOR



CATHERINE PAYNE  
CHAIRPERSON

STATE OF HAWAII  
**STATE PUBLIC CHARTER SCHOOL COMMISSION**  
**('AHA KULA HO'ĀMANA)**

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FOR: HB 831 Relating to Public Charter Schools  
DATE: Monday, February 9, 2015  
TIME: 2:00 p.m.  
COMMITTEE(S): House Committee on Education  
ROOM: Conference Room 309  
FROM: Tom Hutton, Executive Director  
State Public Charter School Commission

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Chair Takumi, Vice Chair Ohno, and members of the Committee:

The State Public Charter School Commission ("Commission") appreciates the opportunity to submit this testimony in support of House Bill 831, "Relating to Public Charter Schools." The measure, which was developed by the Commission, would:

1. Provide that a public charter school that becomes financially insolvent shall be deemed to have voluntarily surrendered its charter contract;
2. In the event of serious health and safety concerns at a charter school, require the school's authorizer to determine whether the concerns require school closure;
3. Under both of these closure scenarios, require the authorizer to adopt a closure protocol; and
4. Under both of these scenarios, require the authorizer to determine whether a transition period is necessary before closure for the school's students and staff.

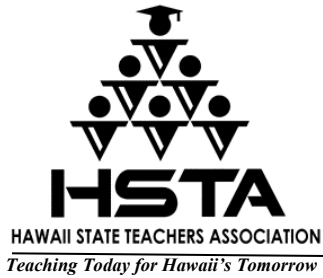
As we discussed with this Committee at our informational briefing, the need for this revision to Hawaii's charter school statute has been revealed by the current situation with the pending revocation of Hālau Lōkahi Charter School. The lengthy revocation process established under Chapter 302D does not contemplate a scenario in which the school already is insolvent and/or in which the school insists on continuing operations despite its insolvency.

Upon further consideration, we believe Section 2 of the bill, which addresses a health or safety emergency at a school, to be unnecessary. Under current law, the Commission already has the authority to order a school to suspend operations for health or safety considerations, so that if for some reason contract revocation and closure were warranted, the normal process could be followed. We respectfully request that this section be deleted from the bill.

We also recommend revising proposed section (a) simply to read, “In the event that any public charter school becomes financially insolvent, the school shall be deemed to have surrendered its charter contract,” to delete the word “voluntarily,” since the point of this provision is that the surrender of the contract in the event of insolvency be statutorily required.

As of this writing, we are working on a possible definition of “insolvency” for purposes of this measure, in an attempt to make the provision’s applicability clear in advance and to reassure schools by clarifying that this measure is intended to apply narrowly to an extreme situation, not to any situation in which a school may be experiencing financial challenges. Members of the Senate Committee on Education last week expressed a preference for the Commission to adopt such a definition in policy with input from charter schools, and we are prepared to use either approach or perhaps a combination of the two by recommending a general statutory definition to signal the Legislature’s intent that this provision be used narrowly, with more details to be adopted by the Commission.

Thank you for the opportunity to provide this testimony.



**LATE**

**LATE**

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TESTIMONY BEFORE THE HOUSE  
COMMITTEE ON EDUCATION

Wil Okabe  
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Joan Kamila Lewis  
Vice President  
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Secretary-Treasurer  
Wilbert Holck  
Executive Director

DATE: MONDAY, FEBRUARY 9, 2015

RE: H.B. 831 - RELATING TO PUBLIC CHARTER SCHOOLS

PERSON TESTIFYING: WIL OKABE  
HAWAII STATE TEACHERS ASSOCIATION

The Honorable Chair Roy Takumi, Honorable Vice Chair Takashi Ohno and Members of the Committee:

The Hawaii State Teachers Association (HSTA) **supports H.B. 831**, relating to public charter schools.

HSTA is the exclusive representative of more than 13,500 public and charter school teachers statewide. HSTA is the state affiliate, of the 3.2 million members of the National Education Association.

Over 20 years ago, the state of Hawai'i committed itself to embracing the educational innovations made possible outside of the Department of Education by enacting public charter school legislation.

Since then, the state has further committed itself by enacting legislation to expand our public charter school system.

The legislation before you provides our public charter school system the assistance needed to be the best it can be. HSTA supports innovation in public education. The core assumptions that inform the charter school concepts - innovation, autonomy, and accountability - indicate that charter schools have the potential to facilitate positive change and should be qualitatively different from what is available in mainstream public schools.

As such, on behalf of Hawai'i's 13,500 public and public charter school teachers, the Hawai'i State Teachers' Association stands in **support of H.B. 831**.

February 6, 2015

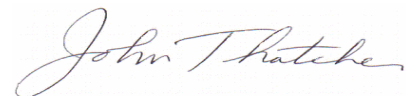
Chairperson Takumi, Vice Chairperson Ohno and members of the House Committee on Education:

I would like to express my strong concerns regarding House Bill 831. I urge you to kill this bill on Constitutional grounds. The procedure outlined in this bill for closing a charter school violates the right to due process guaranteed in the Fifth Amendment of the Bill of Rights. This process was used by Thomas Hutton, the Executive Director of the Hawaii State Public Charter School Commission to force the members of the Governing Board of Halau Lokahi and the Director to resign. The current members of the school's Governing Board did not approve the Charter Contract. Thomas Hutton's blatant attacks through the media have poisoned the public's perception of Halau Lokahi. The former Governing Board and Director of the school are not being allowed an opportunity to exercise their rights to due process. As one of the former members of Halau Lokahi's Governing Board, I am professionally and personally offended by the tactics used by Thomas Hutton to close the school. He chose to apply a section of the law pertaining to health and safety issues to eliminate the only Governing Board and Director capable of preparing a defense for the school. Now he is attempting to legitimize his actions by making changes to the current law through this bill.

If we had an opportunity to present our case, we would have pointed out that the Hawaii State Public Charter School Commission withheld allocated funding from the school during the 2013-2014 school year. Some of these 2013-2014 funds were not released until the current fiscal year. The Commission was not provided an allocation for its staff, by the Legislature, for the 2013-2014 fiscal year. With no legal authority, they took funds from the charter schools' allocation to fund their office. The Commission withheld federal funds throughout the 2013-2014 school year despite an Attorney General opinion that said that all of these funds should have been distributed to the schools. The Commission staff also withheld a collective bargaining allocation and the 4th quarter FICA reimbursement from Halau Lokahi during the 2013-2014 school year. The legally appointed Governing Board of the school and the former Director will not be provided with an opportunity to raise these and other fiscally related issues through an administrative process. Their only recourse is to take legal action through federal and/or state courts.

Thomas Hutton is a lawyer. He has manipulated the law and created a hostile environment for all charter schools in Hawaii. Again, I strongly urge you to kill this bill and send a clear message to the Hawaii State Public Charter School Commission and its Executive Director. Thank you for this opportunity to present testimony concerning House Bill 831.

Sincerely,

A handwritten signature in cursive script that reads "John Thatcher". The signature is written in dark ink and is positioned above the printed name.

John Thatcher

**LATE**

**LATE**

**HB831**

Submitted on: 2/9/2015

Testimony for EDN on Feb 9, 2015 14:00PM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
D'Angelo McIntyre	Individual	Comments Only	Yes

Comments: I am on the fence with this bill due to the Finacial Insolvency part of the bill. As I said in my oral testimony if health and safety issues arise then yes but financial problems should be worked out and not be the catalyst for closing the school altogether. Where ever the financial issues originated from and who caused them should be dealt with. Mahalo nui